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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,940	06/04/2001	Bruce M. Ruana	RUANA-001	3502
7590	05/09/2006		EXAMINER	
Kristin C. Castle Sierra Patent Group P.O. Box 6149 Stateline, NV 89449			MAYO, TARA L	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 05/09/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/874,940	RUANA, BRUCE M.	
	Examiner	Art Unit	
	Tara L. Mayo	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11,23,34,46,57,69 and 74-79 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,23,34,46,57,69 and 74-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20060406</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11, 34 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shomo (U.S. Patent No. 4,660,832) in view of Johnson (U.S. Patent No. 2,425,245).

Shomo '832, as seen in Figure 3, shows a grip comprising:

with regard to claims 11 and 57,

a hand railing (13a) having an outer surface, a length and cross-sectional circumference

a skin layer (17a) having a top surface, a bottom surface, a first end, and a second end

opposite said first end, wherein said top surface is continuous and flat from said first end to said second end;

a 4-way stretchable material layer (16a) with a stretchable top surface and a stretchable bottom surface wherein said 4-way stretchable material comprises polyester (col. 5, lines 44 through 46), said top surface of said stretchable layer adhered to said bottom surface of said skin layer (col. 5, lines 35 through 37); and

an adhesive disposed on said bottom surface of said 4-way stretchable layer.

Shomo '832 fail to teach:

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the skin layer being axially wrapped around said outer surface of the hand railing such that the edges of the skin layer do not overlap;

the top surface of the stretchable layer being permanently adhered to the bottom surface of the skin layer; and

the adhesive disposed on the bottom surface of the stretchable layer being releasable.

Johnson '245, as seen in Figure 6, shows a grip (2) comprising a skin layer (8) axially wrapped around the outer surface of a handrail (4) such that the edges of the skin layer do not overlap.

With regard to claims 11, 34 and 57, it would have been obvious to one having ordinary skill in the art of grips at the time the invention was made such that the skin layer of the device shown by Shomo '832 would be wrapped around the outer surface of the railing as taught by Johnson '245. The motivation would have been for ease of application and removal.

With regard to claims 11, 34 and 57, it would have been obvious to one having ordinary skill in the art of grips at the time the invention was made to permanently adhere the top surface of the stretchable layer to the bottom surface of the skin layer on the device shown by Shomo '832 in view of the teaching for a "suitable adhesive" in column 5 on lines 35 through 37. The motivation would have been to permanently secure the skin layer to the stretchable layer as desired.

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With regard to claims 11, 34 and 57, it would have been obvious to one having ordinary skill in the art of grips at the time the invention was made to apply a releasable adhesive to the bottom surface of the stretchable layer on the device shown by Shomo '832 in view of the teaching for a "suitable adhesive" in column 5 on lines 34 through 35. The motivation would have been to releasably attach the grip to a handle as desired while permitting subsequent removal and replacement.

With regard to claim 34, the method steps recited therein are inherent to the method of making the device disclosed by Shomo '832 as modified above by Johnson '245.

3. Claims 23, 46 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shomo (U.S. Patent No. 4,660,832) in view of Johnson (U.S. Patent No. 2,425,245) and Kobe et al. (U.S. Patent No. 6,610,382 B1).

Shomo '832, as seen in Figure 3, shows a grip comprising:
with regard to claims 23 and 69,

a hand railing (13a) having an outer surface, a length and a cross-sectional circumference;
a skin layer (17a) having a top surface, a bottom surface, a first end, and a second end opposite said first end, wherein said top surface is continuous and flat from said first end to said second end;

a 4-way stretchable material layer (16a) with a stretchable top surface and a stretchable bottom surface wherein said 4-way stretchable material comprises polyester (col. 5, lines 44 through 46), said top surface of said stretchable layer adhered to said bottom surface of said skin layer (col. 5, lines 35 through 37); and

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an adhesive disposed on said bottom surface of said 4-way stretchable layer.

Shomo '832 fail to teach:

the skin layer being axially wrapped around said outer surface of the hand railing such that the edges of the skin layer do not overlap;

the top surface of the stretchable layer being permanently adhered to the bottom surface of the skin layer;

the adhesive disposed on the bottom surface of the stretchable layer being releasable; and

a backing layer having a top surface and a bottom surface, the top surface of the backing layer permanently adhered to the bottom surface of the skin layer.

Johnson '245, as seen in Figure 6, shows a grip (2) comprising a skin layer (8) axially wrapped around the outer surface of a handrail (4) such that the edges of the skin layer do not overlap.

Kobe et al. '382, as seen in Figure 1, disclose a grip (20) for releasable adhesion to a hand support system comprising:

a skin layer (21) having a top surface (the plane within which lie the tops of elements 26) and a bottom surface (25), wherein said top surface is flat;

a 4-way stretchable material (22; col. 4, lines 16 through 17 and 25 through 41) layer with a stretchable top surface and stretchable bottom surface, said top surface of said stretchable layer adhered permanently to said bottom surface of said skin layer; and

a releasable adhesive (34; col. 4, lines 54 through 56) disposed on said bottom surface of said 4-way stretchable layer, wherein said 4-way stretchable material comprises polyester.

Kobe et al. '382 further teach the possibility of multiple backing layers (col. 2, lines 39 through 42, and col. 4, lines 5 through 8).

With regard to claims 23 and 69, it would have been obvious to one having ordinary skill in the art of grips at the time the invention was made such that the skin layer of the device shown by Shomo '832 would be wrapped around the outer surface of the railing as taught by Johnson '245. The motivation would have been for ease of application and removal.

With regard to claims 23 and 69, it would have been obvious to one having ordinary skill in the art of grips at the time the invention was made to permanently adhere the top surface of the stretchable layer to the bottom surface of the skin layer on the device shown by Shomo '832 in view of the teaching for a "suitable adhesive" in column 5 on lines 35 through 37. The motivation would have been to permanently secure the skin layer to the stretchable layer as desired.

With regard to claims 23 and 69, it would have been obvious to one having ordinary skill in the art of grips at the time the invention was made to apply a releasable adhesive to the bottom surface of the stretchable layer on the device shown by Shomo '832 in view of the teaching for a "suitable adhesive" in column 5 on lines 34 through 35. The motivation would have been to reliably attach the grip to a handle as desired.

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With regard to claims 23 and 69, it would have been obvious to one having ordinary skill in the art of grips at the time the invention was made to modify the device shown by Shomo '832 such that it would further include a backing layer as taught by Kobe et al. '382. The motivation would have been to impart dimensional stability to the material.

With regard to claim 46, the method steps recited therein are inherent to the method of making the device disclosed by the combination of Shomo '832 and Johnson '245 as modified above by Kobe et al. '382.

4. Claims 74, 76 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shomo (U.S. Patent No. 4,660,832) in view of Johnson (U.S. Patent No. 2,425,245), as applied to claims 11, 34 and 57, respectively, above and further in view of Oseroff et al. (U.S. Patent No. 3,848,480).

The combination of Shomo '832 and Johnson '245 teaches all of the limitations of the claimed invention with the exception(s) of:

a luminescent presence in the skin layer.

Oseroff et al. '480, as seen in Figures 1 through 6, show a grip and expressly teach the desirability of a luminescent handgrip for safe handling of a railing in the dark (col. 5, lines 35 through 42).

With regard to claims 74, 76 and 78, it would have been obvious to one having ordinary skill in the art of grips at the time the invention was made to modify the device shown by the

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combination of Shomo '832 and Johnson '245 such that it would include a luminescent presence in the skin layer as taught by Oseroff et al. '480. The motivation would have been to provide for safe handling in the dark.

5. Claims 75, 77 and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shomo (U.S. Patent No. 4,660,832) in view of Johnson (U.S. Patent No. 2,425,245) and Kobe et al. (U.S. Patent No. 6,610,382 B1) as applied to claims 23, 46 and 69 above, and further in view of Oseroff et al. (U.S. Patent No. 3,848,480).

Shomo '832 in view of Johnson '245 and Kobe et al. '382 teaches all of the limitations of the claimed invention with the exception(s) of:

a luminescent presence in the skin layer.

Oseroff et al. '480, as seen in Figures 1 through 6, show a grip and expressly teach the desirability of a luminescent handgrip for safe handling of a railing in the dark (col. 5, lines 35 through 42).

With regard to claims 75, 77 and 79, it would have been obvious to one having ordinary skill in the art of grips at the time the invention was made to further modify the device shown by the combination of Shomo '832, Johnson '245 and Kobe et al. '382 such that it would include a luminescent presence in the skin layer as taught by Oseroff et al. '480. The motivation would have been to provide for safe handling in the dark.

Response to Amendment

6. The three affidavits under 37 CFR 1.132 filed 15 February 2006 is insufficient to overcome the rejection of claims 11, 23, 34, 46, 57, 69 and 74 through 79 based upon Shomo (U.S. Patent No. 4,660,832) in view of Johnson (U.S. Patent No. 2,425,245) as set forth in the last Office action because:

Each include(s) statements that amount to an affirmation that the claimed subject matter functions as it was intended to function. This is not relevant to the issue of nonobviousness of the claimed subject matter and provides no objective evidence thereof. See MPEP § 716.

Response to Arguments

7. Applicant's arguments filed 15 February 2006 have been fully considered but they are not persuasive.

In response to Applicant's statements that Shomo '832 fails to teach a hand railing, the Examiner maintains that element 13a of the prior art is a hand railing and provides hand guidance and support along a device, such as a tennis racquet.

In response to Applicant's statement that Johnson '245 fails to teach a handle, the Examiner notes that Johnson '245 was not relied upon for the teaching of a hand railing.

In response to Applicant's statement that Johnson '245 fails to teach the skin layer being wrapped, the Examiner contends that the skin layer is wrapped about the handle. Specifically, the skin layer would necessarily be folded about the hand rail in order to maintain its position on the same.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 571-272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



tim

30 April 2006



Thomas B. Will
Supervisory Patent Examiner
Group 3600